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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

SATURNINO SANDOVAL, JR.,

Defendant and Appellant.

B213584

(Los Angeles County
Super. Ct. No. BA224976)

APPEAL from an order of the Superior Court of Los Angeles County, Michael A. Tynan, Judge. Affirmed.

Sharon Fleming, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Saturnino Sandoval, Jr. appeals from the trial court's order denying his motion to set aside his plea and the resulting judgment (Pen. Code, § 1237, subd. (b)).¹ We affirm the trial court's order.

STATEMENT OF THE CASE

In a 10-count information filed June 24, 2002, Sandoval was charged with one count of assault with a firearm, during which he personally used a handgun (§§ 245, subd. (a)(2), 12022.5, subd. (a)), three counts of dissuading a witness by force or threat (§ 136.1, subd. (c)(1)), one count of making criminal threats (§ 422), one count of corporal injury to a child (§ 273d, subd. (a)), three counts of kidnapping, during which he personally used a firearm (§§ 207, subd. (a), 12022.53, subd. (b), former § 12022.5, subd. (a)(1)), and one count of first degree, residential burglary (§ 459).

At proceedings held on November 4, 2002, the prosecutor indicated that he and Sandoval had reached an agreement. Sandoval was to plead guilty to the kidnapping alleged in count seven of the information and admit that he personally used a firearm during the offense. In exchange, he would be sentenced to the low term of three years for the conviction of kidnapping and the mid-term of four years for his personal use of a firearm, or a total of seven years in state prison. The remaining counts would be dismissed.

After Sandoval waived his right to a jury or court trial, his right to confront and cross-examine the witnesses against him, his right to subpoena witnesses and present a defense and his privilege against self-incrimination (*Boykin v. Alabama* (1969) 395 U.S. 238; *In re Tahl* (1969) 1 Cal.3d 122), the trial court informed him of other consequences of his plea. In particular, the court stated: "If you are not a citizen, you will be deported, denied reentry or denied naturalization, and excluded from the United States."

Sandoval indicated that he was pleading guilty freely and voluntarily and because he believed it was in his best interest to do so. He then pleaded guilty to kidnapping in

¹ All further statutory references are to the Penal Code unless otherwise indicated.

violation of section 207, subdivision (a) and admitted the allegation made pursuant to former section 12022.5, subdivision (a)(1) that he personally used a firearm during the offense.

The trial court sentenced Sandoval to state prison for the low term of three years for his conviction of kidnapping. For his personal use of a firearm during the offense, the trial court imposed a consecutive term of four years, for a total of seven years in state prison. Sandoval was given presentence custody credit for 167 days actually served plus 25 days, or 15 percent, good time/work time (§ 2933.1), for a total of 192 days. The trial court ordered Sandoval to pay a \$1,400 restitution fine (§ 1202.4, subd. (b)) and a suspended \$1,400 parole revocation restitution fine (§ 1202.45). After ordering that Sandoval was to have “psychiatric and psychological counseling to handle violence,” the trial court dismissed all remaining counts and allegations in the interest of justice (§ 1385).

On December 3, 2008, Sandoval moved to withdraw his 2002 plea. In the alternative, he asked the trial court to amend “the charge . . . to a similar offense that [did] not carry immigration consequences such as deportation.” Sandoval claimed that, prior to entering his plea, “no one informed [him] that his plea would result in deportation consequences.” Sandoval asserted that, had he been properly advised of the deportation consequences of his plea, “he would not have pleaded guilty and would have pursued other options that may have been available to him. For these reasons, Mr. Sandoval submit[ted] that he [was] entitled to withdraw his plea and to have his conviction vacated.” In particular, Sandoval asserted his trial counsel was ineffective for failing to adequately inform him of the immigration consequences of his plea. He argued, “[s]ince immigration consequences frequently have effects even more devastating to the defendant than the sentence for the criminal conviction, attorneys have an obligation to investigate the immigration facts, research the law (or consult an expert), advise the client, and defend the case . . . to minimize them”

The trial court denied Sandoval's motion. In a minute order dated December 3, 2008, the court indicated: "The defendant was properly advised of the immigration consequences of his plea . . . which was taken in Department 113 of the Los Angeles Superior Court. The defendant acknowledged the consequences of his plea and understood his rights before entering his guilty plea on November 4, 2002."

Sandoval filed a timely notice of appeal from the trial court's order on January 16, 2009.

This court appointed counsel to represent Sandoval on appeal on April 23, 2009.

CONTENTIONS

After augmenting the record with a transcript and minute order of Sandoval's 2002 plea proceeding, counsel filed an opening brief which raised no issues and requested this court to conduct an independent review of the record.

By notice filed June 2, 2009, the clerk of this court advised Sandoval to submit within 30 days any contentions, grounds of appeal or arguments he wished this court to consider. No response has been received to date.

REVIEW ON APPEAL

We have examined the entire record and are satisfied counsel has complied fully with counsel's responsibilities. (*Smith v. Robbins* (2000) 528 U.S. 259, 278-284; *People v. Wende* (1979) 25 Cal.3d 436, 443.)

DISPOSITION

The trial court's order is affirmed.

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KITCHING, J.

We concur:

KLEIN, P. J.

CROSKEY, J.